

NO. 24825

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

MARILOU Z. JOB and GOLLEN JOB, Plaintiffs-Appellants, v.
STANLEY PAN, Defendant-Appellee, and JOHN DOES 1-10,
JANE DOES 1-10, DOE PARTNERSHIPS 1-10, DOE
CORPORATIONS 1-10, ROE "NON-PROFIT" ORGANIZATIONS 1-10,
and ROE GOVERNMENTAL ENTITIES 1-10, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civ. No. 00-1-3738)

ORDER DENYING MOTION FOR RECONSIDERATION

(By: Watanabe, Acting C.J., Lim, and Foley, JJ.)

On August 2, 2004, Defendant-Appellee Stanley Pan (Pan) filed a Motion for Reconsideration (motion for reconsideration) of this court's Summary Disposition Order dated July 23, 2004. We conclude, having considered the arguments presented in the motion for reconsideration, the applicable statutory law, and the precedent of the Hawai'i Supreme Court, that the motion must be denied.

The motion for reconsideration primarily inquires how the cases Kim v. Reilly, ___ Hawai'i ___, ___ P.3d ___ (June 14, 2004, 2004 WL 1303168), and Gepaya v. State Farm Mut. Auto. Ins. Co., 94 Hawai'i 362, 14 P.3d 1043 (2000), can be reconciled and applied simultaneously. By our reading, Kim+ prohibits the circuit court from modifying or vacating the arbitration award entered as a final judgment on August 27, 2001, while Gepaya appears to condone the practice of "reserving" the question of

the application of the covered loss deductible (CLD) for later proceedings. While the possible inconsistency between the cases is a legitimate concern, it is more appropriately addressed to the Hawai'i Supreme Court.

The motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, August 12, 2004.

On the motion:

Randall Y. S. Chung and
Lance S. Au for
defendant-appellee.

Acting Chief Judge

Associate Judge

Associate Judge